

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

TYRONE ROGERS,

Plaintiff,

v.

**Civil Action No. 2:13cv72
(Judge Bailey)**

**DR. DAVID PROCTOR, Doctor,
DR. MARK BAKER, Wexford Medical Sources Consultant,
TRISTAN TENNEY, Medical Administrator,
ADRIAN HOKE, Ex-Warden,
MARVIN C. PLUMLEY, Warden,
JIM RUBENSTEIN, Commissioner,
DEBBIE HISSOM, Medical Director, RN, BSN,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge John S. Kaull [Doc. 23]. By Local Rule, this action was referred to Magistrate Judge Kaull for submission of a report and a recommendation ("R&R"). Magistrate Judge Kaull filed his R&R on April 3, 2014.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*

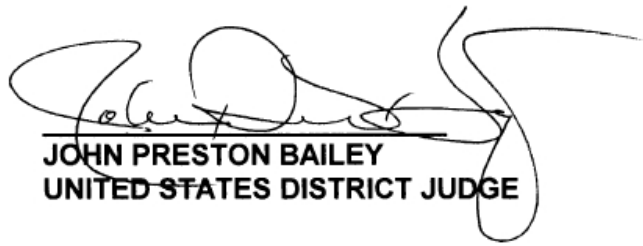
review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaull's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. The docket reflects that service was accepted on April 7, 2014 [Doc. 24]. No objections have been filed. Accordingly, the R&R will be reviewed for clear error.

Upon careful review of the above, it is the opinion of this Court that the magistrate judge's Report and Recommendation [Doc. 23] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, the claims against Adrian Hoke, Marvin C. Plumley, and Jim Rubenstein are hereby **DISMISSED WITH PREJUDICE**. The Clerk is **DIRECTED** to enter judgment for these parties. The plaintiff's claims against defendant David Proctor, Tristan Tenney, Mark Baker, and Debbie Hissom shall proceed, and it is **ORDERED** that those defendants be **SERVED** with copies of the summons and Complaint by the United States Marshals Service. Finally, the plaintiff's Motion for Injunction/Restraining Order [Doc. 7] and Motion for Declaratory Judgment [Doc. 8] are **DENIED**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

DATED: April 25, 2014.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE